

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

REGINALD O. ROBINSON	§	
v.	§	CIVIL ACTION NO. 6:14cv786
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Reginald Robinson, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 challenging the legality of prison disciplinary action taken against him. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings and records, the Magistrate Judge issued a Report recommending that the petition be dismissed because Robinson previously filed a federal habeas corpus petition challenging the same disciplinary case and raising the essentially the same grounds. Robinson did not secure permission from the Fifth Circuit Court of Appeals to file a successive petition, as required by 28 U.S.C. §2244(b)(3). Robinson did not file objections to the Report of the Magistrate Judge; instead, he filed a motion asking that his petition be withdrawn.

The Court has reviewed the pleadings and the Report of the Magistrate Judge and has determined that this Report is correct. Nonetheless, Robinson's request to withdraw his petition, construed as a motion for voluntary dismissal, should be granted. *See Carter v. United States*, 547 F.2d 258, 259 (5th Cir. 1977); *Thomas v. Phillips*, 83 Fed.Appx. 661, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing *Carter*). It is accordingly

**ORDERED** that the Petitioner's motion to dismiss his habeas corpus petition (docket no. 7) is **GRANTED**. It is further

**ORDERED** that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** on the motion of the Petitioner. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**It is SO ORDERED.**

**SIGNED this 20th day of February, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE